

REMARKS

Claims 1-6, 8-25 and 27-36 remain in this application, with claims 1, 4, 21, and 23-25 amended. By these amendments, no new matter has been added. Support for the amendments to claims 1 and 21 may be found on page 1:23-25, page 3:28 – 4:2, page 9:20-26, and page 11:4-26. Further support is provided in the related provisional application 60/197,715, e.g., at page 2, paragraphs 2-3, which is incorporated by reference. The remaining amendments are for consistency with the independent claims.

As defined by independent claims 1 and 21, the invention covers aggregation of original message data and said response message data from a plurality of remote information sources. The invention then makes this information available as aggregated data to a plurality of users. The user community is therefore able to view message data from multiple bulletin boards from a single source. The prior art fails to provide this capability. These deficiencies of the prior art are discussed in detail in connection with the pending rejections below.

Further novel and patentable aspects of the invention are defined in the dependent claims. For example, according to claim 24 users are able to respond to messages in the aggregated data, and the additional responses, or additional original messages, may be included in the aggregated message data. For further example, according to claim 25, the additional message data may be distributed back to the originating remote information resource. Further novel aspects include inserting advertising in message data that is distributed back to the remote information resources. The prior art fails to disclose or suggest the use of a message board intermediary and aggregator as defined in more explicit terms by the pending claims, which are therefore allowable.

Claims 1-6, 16-18, 21-25, 31-33, 35 and 35 have been rejected under 35 U.S.C. § 102(b) in view of Herz. These rejections are respectfully traversed.

Herz concerns developing user profiles and applying these profiles to discover information likely to be of interest to a particular user. Abstract. According to Herz, message boards are just another potential source for information. Herz fails to disclose or suggest collecting message data from a plurality of message boards, and providing it to a plurality of reception devices as aggregated message data. To the contrary, Herz teaches that users should communicate directly with other users or message groups. Col. 73:33-41. Concerning its information service, Herz expressly admits that it “serves only to locate existing communities.” Col. 73:29-33. In other words, Herz discloses locating messages for particular users, but does not disclose aggregating messages from different boards on a common resource that is available to a plurality of users. Thus, Herz fails to disclose a system or method configured for:

- retrieving said original message data and said response message data from said plurality of remote information systems;
- storing said original message data and said response message data;
- configuring said original message data and said response message data from different ones of said plurality of remote information systems to be arranged together as aggregated message and response data relating to a topic; and
- providing said aggregated message and response data to a plurality of reception devices

as defined by claims 1 and 21.

In the last Office Action, it was acknowledged that Hertz does not disclose providing data “configured to allow the original message data and the response message data to be viewed as aggregated message and response data using any one of the plurality of reception devices,” as claims 1 and 21 previously recited. Office Action, paragraph 6. However, it was argued by the Examiner that “since the structure recited in the reference is substantially identical to that of the claims, these claimed properties or functions are presumed to be inherent.” *Id.*, citing M.P.E.P § 2112.01. Applicants respectfully assert that the Examiner did not correctly apply M.P.E.P § 2112.01 to claims 1 and 21 as previously worded. Inherency requires that the subject

matter be necessarily present, which is not the case here. In addition, the Examiner's argument is moot, in view of the present amendments. Claims 1 and 21 have been amended to expressly recite this subject matter as a process step limitation in claim 21, and as a feature of a system application in claim 1. Hence, there is no colorable basis for asserting that Hertz discloses a substantially identical structure. With respect to claim 21, Hertz fails to disclose or suggest a step of "configuring said original message data and said response message data from different ones of said plurality of remote information systems to be arranged together as aggregated message and response data relating to a defined topic" or a step of "providing said aggregated message and response data to a plurality of reception devices." With respect to claim 1, Hertz fails to disclose or suggest any application adapted to perform these steps.

Further, the Examiner's argument regarding inherency in paragraph 7 of the Office Action does not apply in view of the express limitation that the original message and response data be "from different ones of said plurality of remote information systems" and be "arranged together as aggregated message and response data relating to a topic." It should be considered that Hertz is concerned with finding information likely to be of interest to a particular user, i.e., "to enable a user to access information of relevance and interest to the user without requiring the user to expend an excessive amount of time and energy searching for the information." Col. 1:44-47. In other words, Hertz is concerned with personalizing information for a particular user, and fails to disclose topically organizing aggregate message and response data from different sources, or providing such aggregated data to a plurality of reception devices. These limitations are therefore not inherently present in Hertz.

Further with respect to claims 4 and 23, Hertz fails to disclose or suggest "receiving additional response message data and additional original message data directly from said reception devices, and aggregating the additional data with the original and response message data," as defined by these claims. In other words, Hertz does not disclose operating a bulletin board or similar message service to collect

messages and responses in addition to those gathered from other message services. Hertz merely discloses collecting information likely to be of interest to a particular user. Furthermore, the Office Action does not point out where Hertz discloses the elements of claims 4 and 23, and so has not made the required showing for anticipation.

Furthermore, Hertz fails to disclose or suggest providing any data "to at least one of said plurality of remote information systems" as all of claims 5, 6, 24 and 25 require, in some fashion. Hertz merely discloses collecting information, not dispensing information to the sources from which it is gathered – here, the "said plurality of remote information systems." Again, the Office Action does not point out where Hertz discloses the elements of these claims, and so has not made the required showing for anticipation.

Failing to disclose all of the claimed elements, Herz cannot anticipate these claims, which are therefore allowable. The remaining rejected claims are also allowable, at least as depending from allowable base claims.

Claims 8-15, 19, 20, 27-30 and 34 have been rejected under 35 U.S.C. 103(a) and obvious over Herz and official notice. These rejections are respectfully traversed. In a nutshell, all of these claims except for 19 and 34 generally define providing advertising in messages provided to "said plurality of remote information systems," meaning the other participating message systems from which message data is gathered. Claims 19 and 34 define selecting one of "said plurality of remote information systems" via nomination.

Applicant respectfully submits that the elements defined by 8-15, 19, 20, 27-30 and 34 were not common practices or otherwise known at the time the invention was made. A specific reference or references be therefore be provided, showing all the claimed elements, as required. The statement in the last Office Action, paragraph 11 that "applicant either failed to traverse the examiner's assertion of official notice or that traverse was inadequate" is respectfully traversed. It is admitted only that advertising and nominating were known in the art at the time of the invention, however, all of these

claims are more limited than bare use of advertising or nomination. No showing has been made that all the elements of these claims were known in the art, as is required for a showing of obviousness under § 103.

For example, claim 27 defines "providing advertisement data to said plurality of remote information systems such that a requesting reception device receives said advertisement data along with said additional response message data." As noted above, Hertz fails to disclose or suggest providing any data, including advertising, "to said plurality of remote information systems" from which message data is gathered. Likewise, Hertz fails to disclose or suggest providing advertising "such that a requesting reception device receives said advertisement data along with said additional response message data." That advertising was known in the art is of no significance, because no showing has been made of any prior art reference disclosing these additional elements of claim 27. The same is true of claims 8-15, 19, 20, 28-30 and 34. No *prima facie* case concerning the additional elements of these claims has been established. These claims are therefore allowable.

In summary, the claimed combination of elements would not have been obvious in view of advertising and nominating, even if these were common practices. The prior art fails to contemplate or suggest taking these actions in combination with an aggregating central resource that operates to intervene in a plurality of remote information resources, as these claims define. These rejections should therefore be withdrawn.

In view of the foregoing, the Applicants respectfully submit that claims 1-6, 8-25 and 27-36 are in condition for allowance. Reconsideration and withdrawal of the rejections is respectfully requested, and a timely Notice of Allowability is solicited.

To the extent it would be helpful to placing this application in condition for allowance, the Applicants encourage the Examiner to contact the undersigned counsel and conduct a telephonic interview.

While no fees are believed due in connection with the filing of this paper, the

Serial No. 09/837,071
March 27, 2007
Page 16

Commissioner is authorized to charge any fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 50-3683. A Request for Continued Examination (RCE) accompanies this amendment.

Respectfully submitted,

Date: March 27, 2007

/Jonathan Jaech/
Jonathan Jaech
Attorney for Applicants
Registration No. 41,091

CUSTOMER
NUMBER

58688

PATENT TRADEMARK OFFICE

Connolly Bove Lodge & Hutz LLP
P.O. Box 2207
Wilmington, DE 19899
(213) 787-2500